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## CORRESPONDENCE.

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Divorce Procedure.

Editor Virginia Law Register,  
Charlottesville, Virginia.

Dear Sir:

The second paragraph on page 809 "Notes on Divorce Procedure," reads somewhat involved and peculiar, but no more so than my "copy." It should have read:

Where, however, the original bill and cross-bill make a case for judicial separation only—the latter recriminating a ground for divorce *a mensa*—and during progress of suit, adultery of complainant prior to commencement of suit, is discovered, it seems that it cannot be recriminated, as it would make a new ground of suit, and that for divorce, and not for separation, and different from the relief originally asked in the cross-bill. See Smith, L. R. A. 1917-B, pp. 246-8 note.

In other words, the idea I was attempting to convey was that such newly discovered charge of adultery, which is not a ground for separation in Virginia, but for divorce, cannot be made by amended cross-bill, but if made at all, it should be by an original bill.

At common-law, such introduction of a new case, would be, I believe, called a "departure" while in equitable parlance, it is mentioned as a "new case."

The point is a very nice one in pleading under the divorce statutes of Virginia, the inconsistency of the recrimination by amended cross-bill lying in the fact, that a judgment of *separation* is a different kind or measure of relief than one of divorce, or dissolution of the marriage tie, though the party desiring to recriminate it may feel it is consistent to get rid of the spouse's suit, and the spouse, at all hazard.

Yours very truly,

ALFRED E. COHEN.

RICHMOND, VA.